

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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| MICHELLE BROWN, |) | CASE NO. 1:14-CV-2410 |
| |) | |
| Plaintiff, |) | JUDGE DONALD C. NUGENT |
| |) | |
| v. |) | |
| |) | |
| CAROLYN W. COLVIN, |) | ORDER ADOPTING |
| ACTING COMMISSIONER |) | MAGISTRATE'S REPORT AND |
| OF THE SOCIAL SECURITY |) | RECOMMENDATION |
| ADMINISTRATION |) | |
| |) | |
| Defendant. |) | |

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge George J. Limbert. The Report and Recommendation (ECF # 18), issued on February 5, 2016, is hereby ADOPTED by this Court.

Plaintiff, Michelle Brown, ("Plaintiff") filed a Complaint on October 30, 2014, requesting judicial review of the final decision of the Commissioner of Social Security denying her application for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI"). (ECF #1). Plaintiff asks this Court to review the decision of the Administrative Law Judge ("ALJ"), issued on May 24, 2013, under the following assignments of error: (1) whether substantial evidence demonstrated that Plaintiff's severe impairments meet, or at least equal, Listing 20 CFR Part 404, Subpart P, Appendix 1, Listing 1.02 A (hereafter "Listing 102.A"); and

(2) whether the ALJ erred in failing to grant appropriate weight to the opinions of treating physician, Dr. Kravanya. (ECF #14). Defendant filed its responsive brief on June 11, 2015, arguing that the ALJ's decision was appropriate and should be affirmed. (ECF #17).

The ALJ's decision of May 24, 2013 found that Plaintiff did not have an impairment that met or medically equaled the severity of one of the listed impairments in the Listings. (*See* ECF #9, p. 36). The ALJ then determined that Plaintiff had the residual functional capacity ("RFC") to perform sedentary work with periods of rest, and that Plaintiff was able to perform her previous employment as a telemarketer or appointment setter. (*Id.* at 37, 42-43). Therefore, the ALJ concluded that Plaintiff was not under a disability for social security purposes and was not entitled to DIB or SSI. (*Id.* at 43).

Magistrate Limbert points out that his review of the ALJ's decision is governed by §205 of the Social Security Act, which limits this Court's scope of review to determining whether substantial evidence supports the findings of the Commissioner and whether the Commissioner applied the correct legal standards. *Abbott v. Sullivan*, 905 F.2d 918, 922 (6th Cir. 1990). Upon review of the medical evidence and testimony presented to the ALJ, Magistrate Limbert find that the ALJ decision that Plaintiff's impairments did not meet the requirements of Listing 1.02A was "correct and supported by substantial evidence." (ECF #18, p. 15). Therefore, this Court adopts Magistrate Limbert's findings as to the first assignment of error.

Magistrate Limbert also reviewed the issue of whether the ALJ properly applied the law and whether substantial evidence supports her determination that Dr. Kravanya's opinions were not entitled to controlling weight when evaluating the totality of medical evidence provided by Plaintiff. The ALJ first pointed out that Dr. Kravanya's assertion that Plaintiff was disabled and

“not qualified for work” amounted to a legal decision which is reserved for the Commissioner, and therefore is not entitled to any special significance. (ECF #18, p. 18). The ALJ also noted that Dr. Kravanya’s opinion was inconsistent with the objective medical evidence and Plaintiff’s own testimony and decisions regarding treatment. Therefore, the Magistrate found that the ALJ’s decision to attribute less than controlling weight to Dr. Kravanya’s opinion is supported by substantial evidence. This Court agrees and therefore adopts Magistrate’s Limberts finding on the second assignment of error.

The Court has reviewed *de novo* the Report and Recommendation, *see Ohio Citizen Action v. City of Seven Hills*, 35 F. Supp. 2d 575, 577 (N.D. Ohio 1999), and ADOPTS the Report and Recommendation in its entirety.

IT IS SO ORDERED.

/s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: March 16, 2016